

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #11	CCRB Case #: 201901734	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/17/2018 7:02 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 44	18 Mo. SOL 4/17/2020	EO SOL 12/2/2020	
Date/Time CV Reported Sat, 10/20/2018 9:58 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 02/26/2019 10:55 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jorge Flores	07680	954816	044 PCT
2. POM Vincent Mauro	18615	958892	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gregory Piro	23344	962696	044 PCT
2. POM Anthony Perlmutter	25052	962683	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Vincent Mauro	Abuse: Police Officer Vincent Mauro threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Jorge Flores	Abuse: Police Officer Jorge Flores threatened to arrest individuals.	§ 87(2)(b)

Case Summary

On October 20, 2018, § 87(2)(b) filed this complaint with the CCRB online. This case was split from case number 201808753, which is still under active investigation.

On October 17, 2018, Police Officer Vincent Mauro, Police Officer Jorge Flores, Police Officer Gregory Piro, and Police Officer Anthony Perlmutter, all of the 44th Precinct, approached § 87(2)(b) § 87(2)(b)'s brother, for double-parking his vehicle in front of § 87(2)(b) in the Bronx, where both § 87(2)(b) and § 87(2)(b) live. § 87(2)(b) and approximately six unidentified individuals stood in front of the building. PO Mauro threatened to arrest § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)) and PO Flores threatened to arrest the individuals over the loudspeaker in the police van (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Piro issued § 87(2)(b) a summons for the double-parked vehicle.

The investigation obtained body-worn camera footage of this incident, which will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Vincent Mauro threatened to arrest

§ 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Jorge Flores threatened to arrest individuals.

The investigation established the following facts. On October 17, 2018, at approximately 7:02 p.m., § 87(2)(b)'s brother, § 87(2)(b) was double parked in front of § 87(2)(b) in the Bronx. PO Mauro, PO Flores, PO Piro, and PO Perlmutter, who had all been at the location the night before, arrived in a police van. A crowd of civilians gathered in front of the building and some members of the crowd began to record using their cell phones. PO Mauro threatened to arrest § 87(2)(b) if he did not remain on the sidewalk. PO Piro issued § 87(2)(b) a summons for the double-parked vehicle. When the officers went to leave the location, PO Flores threatened to arrest the crowd of individuals over the loudspeaker for blocking pedestrian traffic. The police van was ultimately egged by an unidentified individual in the vicinity of § 87(2)(b).

§ 87(2)(b) (BR 04) provided an unverified telephone statement before becoming uncooperative. According to § 87(2)(b)'s telephone statement, § 87(2)(b) was parked in front of the building because he was dropping off his girlfriend and assisting her in removing bags from his vehicle. Because the officers were at the location the day before, § 87(2)(b) began recording and asked the officers why they were harassing § 87(2)(b). PO Flores "got in [§ 87(2)(b)]'s face" and told him to go to the sidewalk. § 87(2)(b) did not say that PO Flores or any other officer threatened to arrest him.

§ 87(2)(b) (BR 05) said that the officers asked him to move his vehicle, but he did not want to move it because he was nervous to have an interaction with the officers away from his building. PO Mauro and § 87(2)(b) argued about the summons § 87(2)(b) was about to receive. PO Mauro told § 87(2)(b) "I'm going to get you for something." § 87(2)(b) did not indicate in his statement that other individuals were present for the interaction and did not mention any officer threatening to arrest these individuals.

PO Mauro's body-worn camera footage, in relevant part, shows a group of approximately five individuals standing on the sidewalk adjacent to a parallel parked white car (BR 06-07). The footage in its entirety is located in IA 62 (BR 08). § 87(2)(b) records the incident near the

front of the driver's side of the vehicle. § 87(2)(b) stands between his double-parked vehicle and the white vehicle parked next to the curb. PO Mauro stands in front of the white vehicle next to the curb. PO Mauro approaches § 87(2)(b) who is still standing near the front of the driver's side of the vehicle, and says, "I'm gonna give you a warning. It's on camera, right? You go on the sidewalk." § 87(2)(b) responds, "Why?" to which PO Mauro says, "Because I said so. I'm giving you a lawful order to do so. If you don't like that, I'll take you back to the precinct." § 87(2)(b) takes a small step backward and says, "I'm on the sidewalk." PO Mauro says, "You take a step, I'll take you to the precinct" (<<19:03:17 – 19:04:11>>).

PO Flores' body-worn camera footage, also in relevant part, shows a group of approximately seven individuals standing in a line on the curb (BR 09). The footage in its entirety is located in IAs 65 and 66 (BR 10-11, 08). One of the individuals is recording the incident using what appears to be a cell phone. PO Flores says over the loudspeaker, "If you don't move from in front of the building, you're obstructing pedestrian traffic ... That's my first and final warning ... If not, you'll come back to the precinct with us." While PO Flores makes this statement, a male walks by behind the individuals, without having to move around them, as the individuals are all standing in a line on the curb. A female also walks by without having to move around the individuals (<<19:07:07 – 19:07:26 >>).

PO Mauro (BR 12) and PO Flores (BR 13) provided consistent testimony that they were on routine patrol when they noticed a double-parked vehicle in front of § 87(2)(b) where they had been the day before. When the officers exited the vehicle to speak with § 87(2)(b) a crowd formed. Neither officer recognized any individual in the crowd as being involved in the incident the night before. Members of the crowd recorded the officers and stepped off the sidewalk into the street. Both PO Mauro and PO Flores instructed the members of the crowd to remain on the sidewalk.

PO Mauro did not recall having any interaction with any specific member of the crowd, but the individuals collectively could have been arrested for obstruction of governmental administration (OGA) and disorderly conduct because they stepped off the sidewalk and "got into [the officers'] faces." The individuals in the crowd "must have" ultimately complied with PO Mauro's commands because "they didn't go back to the precinct" with the officers. After reviewing his body-worn camera footage, PO Mauro maintained that § 87(2)(b) could have been arrested for OGA for the reasons he had previously testified, to wit, stepping off the sidewalk and getting "into [the officers'] faces." PO Mauro did not recall if he had given § 87(2)(b) previous commands to stay on the sidewalk.

PO Flores said that some individuals in the crowd complied with his command to remain on the sidewalk, while others did not. PO Flores told the crowd that they could have been arrested for OGA, as they failed to comply with the police. PO Flores reviewed his body-worn camera footage and identified his voice as the voice over the loudspeaker. When the investigation pointed out that a female is seen walking on the sidewalk without the crowd causing any obstruction, PO Flores explained that prior to the video, the individuals captured were scattered across the sidewalk, rather than standing close to the police vehicle. PO Flores had to "address the condition" of these individuals blocking the sidewalk because it "causes an inconvenience" to residents of the building.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of

intimidation, physical force or interference, or by means of any independently unlawful act. N.Y.S. Penal Law § 195.05 (BR 14).

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, obstructs vehicular or pedestrian traffic. N.Y.S. Penal Law § 240.20 (BR 15).

§ 87(2)(g) PO Mauro's statement that § 87(2)(b) stepped off the sidewalk (though this is not clearly depicted in PO Mauro's body-worn camera footage), PO Mauro was not the officer issuing § 87(2)(b) the summons. Further, PO Mauro approached § 87(2)(b) rather than § 87(2)(b) approaching PO Mauro, disputing PO Mauro's testimony that individuals in the crowd "got in [the officers'] faces." § 87(2)(b) exhibited no behavior akin to intentionally preventing the officers from issuing § 87(2)(b) a summons, § 87(2)(g)

PO Flores' body-worn camera footage, which shows two separate individuals walk on the sidewalk without obstruction from any individual in the crowd, § 87(2)(g)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Mauro has been a member of service for three years and has been a subject in eight prior cases and 17 allegations, none of which was substantiated. § 87(2)(g)
- PO Flores has been a member of service for five years and has been a subject in five prior cases and 16 allegations, one of which was substantiated.
 - 201608051 involved a substantiated allegation of refusal to obtain medical treatment. The Board recommended charges and the NYPD imposed formalized training.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of April 8, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 02).
- § 87(2)(b)

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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